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AT SEATTLE CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON DEPUTY

UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT SEATTLE

IN RE Phenylpropanolamine (PPA) Products) Liability Litigation

No MDL 1407

OBED] CASE MANAGEMENT ORDER REGARDING NOTICING AND CONDUCTING OF TRIAL DEPOSITIONS

This document relates to all actions

Recognizing that it is impractical or impossible for the parties to call all proposed witnesses to testify in person at each and every trial to be held in this litigation, the Court permits the taking of trial depositions as follows

Α Preservation Depositions Allowed

A party offering a witness to testify as to factual matters at trial may conduct a trial deposition of the witness either by agreement of the parties or by a showing that the following conditions have been met

- that the trial for which the testimony is being preserved has actually been scheduled,
- 2 that the witness whose testimony is being preserved is likely to be called as a testifying witness in the case, and
- 3 that the witness whose testimony is being preserved has indicated that he/she may not appear to testify in person at trial

[PROPOSED] CASE MANAGEMENT ORDER **REGARDING TRIAL DEPOSITIONS - 1** Case No MDL 1407

019186 0028/973589 1

LANE POWELL SPEARS LUBERSKY LLP SUITE 4100 1420 FIFTH AVENUE SEATTLE, WA 98101 (206) 223-7000

ORIGINAL

B Scheduling

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Unless otherwise ordered by the Court, notice of any preservation deposition shall be served on Plaintiffs' and Defendants' Liaison Counsel more than 21 days before the deposition date, and any objection thereto shall be filed within 7 days of the date the deposition notice is served. The opposing party may in its objections raise any objection to the taking or the timing of the preservation deposition. At any preservation deposition noticed pursuant to this provision, reasonable time shall be provided to the opposing party to conduct cross-examination of the witness. The parties will cooperate in seeking an immediate court resolution to any dispute regarding the taking or timing of a preservation deposition.

C <u>Deposition Notices</u>

A party noticing a trial deposition of a proposed witness shall, at least 21 days before the trial deposition, notify all other parties of the following

- The name of the witness and the basis for his/her likely unavailability,
- The areas of testimony to be covered in the deposition and any opinions to be inquired into,
- The names of the opposing parties who might have a special interest in the deposition, and
 - 4 The expected length of the direct examination

D Conduct of Examination

The proponent of a witness shall select one lawyer to conduct the deposition. The opposing parties shall select one lawyer to handle the general cross examination of the witness, however, each opposing counsel may make limited inquiry into areas of specific interest to their client.

E Exhibits

The party taking a trial deposition pursuant to this CMO shall provide a list of trial exhibits that may be offered at the trial deposition at least 10 days prior to the deposition

[PROPOSED] CASE MANAGEMENT ORDER REGARDING TRIAL DEPOSITIONS - 2 Case No MDL 1407 019186 0028 973589 1

LANE POWELL SPEARS LUBERSKY LLP SUITE 4100 1420 FIFTH AVENUE SEATTLE, WA 98101 (206) 223-7000

F State Coordination

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To continue the effort at coordinating these federal proceedings with pending actions in state courts, the parties may cross-notice the trial deposition of a witness noticed in MDL 1407 pursuant to this CMO in any state court proceedings for use at trial in those states as permitted by agreement of the parties, applicable state court rules, or order of the presiding state court

G Scheduling

To the extent practicable, counsel shall consult with opposing counsel in an effort to schedule trial depositions at times convenient to the witness and the parties. The Court will resolve any deposition scheduling issues that Lead Counsel or their designees are unable to resolve

H Location of Deposition

Unless otherwise agreed to, all trial depositions shall take place within the federal district in which the witness resides or works

I Other Matters

In conducting trial depositions under this CMO, the parties shall otherwise continue to abide by the remaining provisions in CMO No 1 pertaining to depositions of witnesses to the extent not inconsistent with this Case Management Order

SO ORDERED this /b day of December, 2002

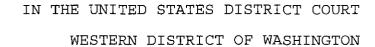
Honorable Barbara Jacobs Rothstein United States District Court Judge

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Presented by LANE POWELL SPEARS LUBERSKY LLP D Joseph Hurson WSBA No 09296 Co-Liaison Counsel for the PPA Manufacturer-Defendants

[PROPOSED] CASE MANAGEMENT ORDER REGARDING TRIAL DEPOSITIONS - 4 Case No MDL 1407 019186 0028/973589 1

LANE POWELL SPEARS LUBERSKY LLP SUITE 4100 1420 FIFTH AVENUE SEATTLE, WA 98101 (206) 223-7000



Phenylpropanolamine,

Plaintiff,

vs.

Defendant.

Case No. 2 01-md-01407

Document number 1290 was scanned and saved on the court's file server.

By: Deputy Clerk

DATE December 17, 2002